THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition (M/S) No. 941 of 2002
OLD NO. 42924/1999

1. Raj Pal
2. Raj Kumar
3. Rajeev Kumar
   All Sons of Malkhan Singh, Residence
   Of Ambuwal, Pargana Jwalapur, Tehsil
   And district – Haridwar. … **Petitioners.**

Versus

1. The Deputy Director of Consolidations, Haridwar
   Camp at Hardwar
2. The Settlement Officer Consolidation, Haridwar,
   At Roorkee.
3. Jagsidh Prashad, Son of Dhannu.
4. Rashid, Son of Barkat
5. Raj Pal
6. Abbal
   Sons of Sardara
7. Somdutt
8. Lalu
   Sons of Tafu
9. Tahid
10. Jahid
    Sons of Tafu
    All Residents of Village Ambuwala Pargana Jwalapur
    Tehsil and District- Haridwar. … **Respondents.**

Smt. Lok Pal Singh Advocate, learned counsel for the petitioners.
Sri Nand Prasad Learned Standing Counsel for the respondents No. 1 and 2.
Sri Navneet Kaushik learned counsel for the respondent No.3.

Dated 28-02-2006.

PC:
(Hon'ble B.S. Verma, J.)

Heard learned counsel.

The present writ petition has been filed against the impugned order dated 23.7.1999 (Annexure No. 3) passed in Revision No. 38, Malkhan Singh Vs. Rasheed and others, passed by Deputy Director of Consolidation (for short **D.D.C.**) Saharanpur, Camp Hardwar.

Brief facts of the case are that the petitioners' father Malkhan Singh filed a revision under Section 48 of the U.P. Consolidation of Holdings Act before the D.D.C. regarding Chak No. 713, village Bhagtanpur Abidpur alias Ikkar, Pargana Jwalapur (Haridwar) against the order dated 17.8.1998 passed by Settlement Officer Consolidation in Appeal Nos. 364 and 435 (Jag Ram Vs. Dharm Singh and others). In the revision, the petitioners' father Malkhand Singh has made a prayer that the order of the S.O.C. be set aside and the Chak be allotted as per order passed by the Consolidation Officer, whereby the Chak has been amended vide his order dated 3.9.1995.

Learned counsel for the petitioners assailed the revisional court's order on the ground that the prayer before the D.D.C. was that Malkhan Singh may be given the Chak according to the order passed by the Consolidation Officer, which was set aside by the Settlement Officer Consolidation. The Revisional Court has taken up a third case observing that there is no need of Chak-road in Gata No. 114/2 and by the impugned order the learned D.D.C., instead of the Chak road which was proposed earlier on Khasara No. 114/2 ordered to be converted as Nali on the eastern side of Chak No. 972 and the Revisional Court has held that there is no need of Chak Road by this amendment, the revisionist as well as holder of Chak No. 972 will be benefited. The grievance which was raised in the revision was not considered by the D.D.C.

Learned counsel for the petitioners has relied upon the case of Pratap Shankar Vs. Dy. Director of Consolidation Jhansi [1995, R.D. Page 153] wherein it was held by the Allahabad High Court that disposal of revision on grounds not raised in memo of revision is unjustified.

In the instant case, I find that the D.D.C. was not justified in making a 3rd case which was not set up by the revisionist

Malkhan Singh as mentioned above. I am of the view that the matter requires reconsideration by the Deputy Director of Consolidation with reference to the grounds raised in the memo of revision (Annexure No. 2 to the writ petition).

Accordingly, the writ petition succeeds and is allowed. The impugned order dated 23.7.1999 passed by Deputy Director of Consolidation is quashed. The matter is remitted back to the D.D.C. for decision of the revision afresh in accordance with law and on the basis of the grounds raised in the memo of revision.

(B.S. Verma, J.)

RCP